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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/615,021	07/13/2000	G. Michael Phillips	35512-00033	3965

7590 10/09/2003

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EXAMINER

SUBRAMANIAN, NARAYANSWAMY

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 10/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/615,021

Applicant(s)

PHILLIPS ET AL.

Examiner

Narayanswamy Subramanian

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27,37 and 39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27, 37, 39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This office action is in response to applicant's communication filed on August 26, 2003. Amendment to claim 25 has been entered. Claims 1- 27, 37 and 39 are currently pending and have been re-examined. The rejections and response to arguments are stated below.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-18, 21-27, 37 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bekaert et al (US Patent 6125355) as discussed in the incorrectly numbered paragraph 5 of the last office action (Paper No. 4)

4. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bekaert et al (US Patent 6125355) in view of Ray et al (US Patent 6018722) as discussed in the incorrectly numbered paragraph 6 of the last office action (Paper No. 4)

Response to Arguments

5. With reference to the Applicants' argument in paragraph 2 of page 10 of the response to the last office action that "applied art does not teachvalues for exogenous variables", the Applicants are directed to page 3 of the last office action (Paper No. 4) where the official notice discusses the feature of estimating a measure of tendency of dependent variable to change based on a change in at least one of plural exogenous variables and obtaining a formula. In support of

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the official notice Applicants are directed to Bodie et al (Reference U) and Makridakis (Reference V pages 241-260).

With reference to the Applicants' argument in paragraph 3 of page 10 of the response that Bekaert is not seen to say anything at all about estimating price sensitivity, the Applicants are directed to Bekaert Column 4 lines 27-30, where the parameter module in Bekaert addresses the feature.

With reference to the argument in the last paragraph of page 11 that Bekaert does not generate a formula for calculating a measure of a tendency of the value of the asset to change as a result of changes in the values of the exogenous variables, these steps are inherent in the pricing module of Bekaert. Also official notice on page 3 of the last office action (Paper No. 4) addresses these steps. In support of the official notice Applicants are directed to Bodie et al (Reference U) and Makridakis (Reference V pages 241-260).

With reference to the argument in the first paragraph of page 13 that no extrinsic evidence has been cited to establish the referenced features of the invention necessarily are present in Bekaert, it must be noted that the combined teachings of Bekaert and Official notice address all the limitations of the independent claims. References in support of the Official notice have been provided in Bodie et al (Reference U) and Makridakis (Reference V).

With reference to the argument in the last paragraph of page 14 that "there still would have been no motivationto change" the motivation is provided on page where the official notice is discussed. In support of the official notice Applicants are directed to Bodie et al (Reference U), Phillips et al (US Patent 6,473,084 B1 Column 13 lines 25-31) and Makridakis (Reference V pages 241-260).

In response to applicant's argument on page 15 that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

With respect to claims 1, 7, 37 and 39 and their dependent claims, in support of the official notice Applicants are directed to Bodie et al (Reference U), Phillips et al (US Patent 6,473,084 B1 Column 13 lines 25-31) and Makridakis (Reference V pages 241-260).

With respect to claims 15 and 16, in support of the official notice Applicants are directed to Makridakis (Reference V pages 211-227, 241-260 and 433-439)

With respect to claims 8, 9 and 23-26, in support of the official notice Applicants are directed to Makridakis (Reference V pages 433-439)

With respect to claims 10 and 11, in support of the official notice Applicants are directed to Phillips et al (US Patent 6,473,084 B1 Column 46 lines 60-65)

With respect to claims 17 and 18, in support of the official notice Applicants are directed to Makridakis (Reference V pages 211-227)

With respect to claim 22, in support of the official notice Applicants are directed to Makridakis (Reference V pages 211-227 and 241-260) and Phillips et al (US Patent 6,473,084 B1 Column 50 line 41 – Col 53 line 30)

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With respect to claim 27, in support of the official notice Applicants are directed to Phillips et al (US Patent 6,473,084 B1 Column 55 lines 51 – 55)

Applicant's other arguments filed have been fully considered but they are not persuasive. Hence the rejections made in the last office action are maintained.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Narayanswamy Subramanian whose telephone number is (703) 305-4878. The examiner can normally be reached Monday-Thursday from 8:30 AM to 7:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached at (703) 308-1065. The fax number for Formal or Official faxes and Draft or Informal faxes to Technology Center 3600 or this Art Unit is (703)

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305-7687. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113.

N. Subramanian
September 30, 2003

~~RICHARD WEISSERGER~~
~~PRIMARY EXAMINER~~